

lain, Reverend Mr. Langford. The roll of Senators was then called and there being no quorum, on motion of the Senate adjourned until 4 o'clock P.M.

4 o'clock P.M.

Senate met. Mr. Magoffin, Senator-elect from the 33rd Senatorial District, and Mr. Knox, Senator-elect from the 30th District, took the oath of office and their seats. The roll was then called and there being no quorum the Senate adjourned until 9 o'clock A.M. tomorrow.

Tuesday, May 10, 1864

9 o'clock A.M.

Senate met. Prayer by the Chaplain, roll called, no quorum; then the Senate adjourned until 3 o'clock P.M.

3 o'clock P.M.

Senate met, roll called, no quorum, whereupon an adjournment was moved until 9 o'clock A.M. tomorrow and carried.

Wednesday, May 11, 1864

9 o'clock A.M.

Senate met. Prayer by the Chaplain. Roll called. Quorum present. The Journals of the two preceding days were read and adopted.

On Mr. Dickson's motion a committee was appointed to act in conjunction with a committee of the House of Representatives to inform the governor that the Legislature was organized and ready to receive any communication from him, and also to inform the House of the organization of the Senate. Messrs. Dickson, Guinn, and Moore of Bastrop were appointed the committee.

Mr. Knox was added to committees on Finance and State Affairs and Military Affairs.

Mr. Guinn offered the following resolution: *Resolved, the House concurring, That the Committees on Finance act jointly on the matters that may come before them the present session. Laid over for one day.*

Mr. Ford offered the following: *Resolved, That the Secretary of State be requested to furnish for the use of the Senate and each Senator a copy of Oldham and White's Digest, the acts of the last regular session, and the Constitution and Ordinances of the Convention. Adopted.*

A committee from the House announced the organization of that body, and that they would also act in conjunction with a committee of the Senate to wait on His Excellency the Governor.

The joint committee to wait on the Governor reported duty performed and that His Excellency the Governor will deliver his message to the two Houses this evening at 3 o'clock. Mr. Guinn introduced a bill to incorporate the Cherokee Furnace Company. Read 1st and 2nd times and referred to Committee on State Affairs.

Mr. Hord introduced a joint resolution relative to impressments. Read 1st and 2nd times and referred to Judiciary Committee.

The memorial of Judge Irwin relative to amendment of the law concerning divorce and alimony was presented and referred to Judiciary Committee.

Mr. Ford presented a memorial of citizens of Caldwell County relative to levying a specific tax which was referred to Judiciary Committee.

On motion the Senate adjourned until 3 o'clock P.M.

3 o'clock P.M.

Senate met, roll called, quorum present. Mr. Harcourt introduced a bill to define the boundary of the headright league of land granted to James McNair and A. W. McLain of Colorado County. Read 1st and 2nd times and referred to Judiciary Committee.

Mr. Hord from the Committee on State Affairs reported a bill to incorporate the Cherokee Furnace Company, with the following amendment: In Section 5, 6th line from bottom, insert "or may at their option locate the same with certificates."

On motion of Mr. Dickson the Senate took a recess of 15 minutes preparatory to hearing the Governor's message read.

The recess having expired the Senate was called to order, and having received an invitation from the House to meet them in their hall, they repaired thereto.

In Joint Session

Roll called, quorum present. The message was then read and is as follows.

Executive Department
Austin May 11th, 1864

Senators and Representatives:

I greet you again in the Capitol of the State, a co-ordinate branch of the government, and call for your counsels in these times of trouble and of danger. I return you my thanks for the kindness and courtesy extended to me during your last session, and for the zeal and devotion exhibited by your legislation to the cause of justice and of liberty. I have convened you in extraordinary session with reference alone to the interests [sic] and rely with confidence upon your advice and aid. I called you together in no gloomy mood. I am today more sanguine of our ultimate and complete success than I have been since the war began. The prospects to me are more bright and cheering and betoken an early dawn to our hopes. Our arms are triumphant east and west of the Mississippi River; and our gratitude cannot be too deep to the officers and soldiers who periled their lives and achieved these triumphs. Many were gathered to their fathers from these victorious fields, and we are still left to mourn the loss, to honor their names, and to counsel and legislate for the cause in which they perished. But one sentiment can animate our bosoms—patriotism and devotion to the alters upon which they sacrificed their lives.

If the respite and safety secured to us for a time by these successes are properly improved by the people and authorities, State and Confederate, the Trans-Mississippi Department may in a few months be placed in a stronger and better condition than it has been since the contest began.

I shall detail to you plainly the condition of the State, and call your attention to such matters of public interest as I consider require your serious and patient consideration.

The Currency

Congress owned the fact that the Confederate currency was almost worthless and provided for its withdrawal from circulation. The act was bold, if not approved by wisdom and good faith. It was an act of financial destruction, if not of financial skill. They created. They destroyed. I have no comments to make. I shall deal with the legislation of Congress as it effects the finances of the State.

In regular session last winter, in a spirit of patriotism and for the purpose of sustaining the Confederate currency, you made all the appropriations in it. You authorized the taxes to be collected in it, and the obligations of the State to be paid from it. You believed that Congress would provide, in some way, to sustain the currency. After the first of July, if the currency is paid out at all from the Treasury, it must be at a discount of $33\frac{1}{3}$ per cent on the dollar, and on the one hundred dollar notes at a still greater sacrifice. One tenth of the annual taxes making the Common School Fund shares the same destiny. This heavy discount is upon a currency rating from twenty to thirty to one in value, in comparison with specie. What proportion of the taxes has already been collected and what proportion is yet to be collected, I am not informed. But it is beyond controversy that this accumulation in the Treasury is almost worthless and that measures must be speedily adopted to relieve the State from this embarrassing position. Whether the collection of taxes in the present currency should not be at once arrested, and the disposition of what is already collected, and what may yet be collected, is for your consideration. I believe that it should be exchanged for the new issue. The State cannot afford to hold it and fund in bonds. This would at once deprive her of the means provided by law to meet her pecuniary obligations. When this exchange can be effected I am not informed, but that it should be speedily done is evident. The State, so soon as the necessary measures can be put in operation, should cease to pay out this currency. After the first of July, if it can be avoided, no payments should be made with it. Whether the old can be exchanged for the new issue and taxes gathered in the new with sufficient expedition to meet the wants of the government, is a matter for your immediate enquiry.

It is necessary to look beyond a few months or mere temporary arrangements in reference to the financial policy of this state.

The issue of Treasury Warrants was very properly arrested to prevent them from being paid out in connection with Confederate Notes and at the same depreciated rates.

The question is now distinctly propounded to you, and must be answered by your legislation, whether you will continue the same financial system, depend entirely upon

Confederate Notes in all their fluctuations and rapid changes as to value and form, or adopt a different system. This system has been fully tried, and the results to the State are fully before you. The new currency will doubtless be better than the present, and may continue so for some time, but how long, none can tell. What value will be placed upon the new issue is for the future to determine. But the habit is established by the people in the use of Confederate money, of receiving and paying it out at its market value. The Confederate Government has not only proclaimed the present currency depreciated, but it long since taxed gold in proportion to its superior value over Confederate Notes.

It is certain that a revolution has taken place in the minds of the people and the general government on the subject of currency. A more firm basis is being looked for, and specie is being recognized as the standard by which to determine the value of paper currency. It is useless to deny the fact or attempt to conceal it. Everyday transactions from Richmond to San Antonio prove it. The currency is treated as depreciated, and is so estimated in buying and selling. The habit being so generally established will certainly continue until the currency ceases to be depreciated and is regarded as sound. I do not believe, however, that the State and the people should forget the obligation to sustain it as far as possible by making all the sacrifices that can be expected. The question, however, is presented whether or not the State *alone* shall continue to conduct her operations and discharge her pecuniary obligations.

If however, the policy is to be continued of relying alone upon the Confederate currency, the issue of Treasury Warrants should be avoided, if possible, for the reasons heretofore given.

If a different financial system is to be adopted, what shall it be?

I confess that the pressure of engagements have prevented me this far from giving that full attention to the subject which its great importance demands and which is necessary to the formation of views which could be recommended as decided convictions.

But the interest of the State requires that the subject should be thoroughly canvassed, and it might be considered

whether the assessment of 1860 or 1861 might not be taken as a basis of values—taxes collected in State Treasury Warrants, coupons of State Bonds at par specie, and the Confederate currency at its value in the market. Treasury Warrants could be substituted for the coupons as they were paid into the treasury, and a provision made for funding the Warrants in six per cent bonds, whenever too many of them were found in circulation. The fact that the coupons were received in payment of taxes would increase, in all probability, the value of the bonds and at the same time diminish the amount of specie necessary to redeem the coupons. It might not be necessary to fund any of the Treasury Warrants for some time to come, perhaps not until the war shall end, as they would become a circulating medium and be sought for by the tax-payer. Under such a system, the taxes might be greatly diminished, and yet be a greater value. It is not my purpose to elaborate, but merely to call your attention to this subject.

I am aware that it would require time to depart from the present system and to put into operation such a one as is indicated above. There would be difficulties to overcome. It would practically be found difficult to determine the value of Confederate Notes in a manner satisfactory and just to all portions of the State. The Government would have to be provided for until taxes could be collected under such a system; and how far the present currency and the new issue will meet the want, and in what manner it should for the purpose, would be for your consideration. The taxes that may be remaining in the treasury on the first of July will be diminished in amount one-third by operation of the law of Congress, unless funded the six per cent Confederate Bonds.

It is at all times important to sustain the credit of the State, and now that we are so isolated from the government at Richmond, it is even more so. Her credit in the progress of this struggle may not only be essential to the safety of the State, but important to the whole Trans-Mississippi Department. It should therefore be guarded and cherished with great care. The resources and position of the State will enable her to carry a very large debt, should it become necessary, and it is for you to determine whether the interest on the Bonds outstanding shall be regularly paid or not. It is important that it should be done, and it

can be, provided the State is unembarrassed in a judicious plan of purchasing and disposing of cotton.

State Troops

At your regular session last winter, you provided for an organization of a state military force to continue during the present war, embracing all capable of bearing arms between the ages of eighteen and forty-five years. This organization was intended to be a reserve corps to be employed in the defense of the State, and in cooperation with Confederate troops, and under Confederate authority, whenever the necessity should exist. The organization was calculated to do much good, and completed and employed as designed by the law, was well suited not only to the wants of the State, but also to its defense. The organization was never thoroughly completed as provided for. I was defeated by the operation of various unexpected and unforeseen causes and difficulties. It is for the present as a State force, gone; and as you left this force to some extent under my control and in my charge, the explanation is due to you and to the country from me why the organization was never completed and why it is gone, and it shall be frankly and concisely given. When the Legislature adjourned in December last, the enemy were in considerable numbers threatening the State from the coast and also from Louisiana, and you had by law contemplated that a reorganization of them might take place in the field. I determined that it was not only necessary that the troops should continue in service, but that the reorganization should take place on the coast, where the troops were under the command of Major General Magruder; and, on the 6th of January I not only caused the necessary orders to be issued to the officers to hasten to the coast to the State Troops not then in service to participate in the reorganization, but I issued also an address, urging upon them the necessity of a prompt and cheerful obedience to the law, and soon many began to move to the post of duty to which they had been called.

The troops in service were still under the command of the major general commanding the District of Texas, New Mexico, and Arizona for the period of time for which they were drafted and volunteered had not then expired, and as they had been received into Confederate service at different

dates, their time of service expired—some early in February, some later in that month, and some even late in the month of March.

It became necessary, therefore, to fix a day intermediate between the period of the expiration of the service of the first companies, battalions and regiments who had entered the field and the last, and the 20th day of February was mutually agreed upon between Major General Magruder and myself as the proper time.

On the 23rd day of January, I issued a formal order continuing the troops in service, and at the same time announced to them the 20th day of February as the day agreed upon for the reorganization, and notified them that after reorganization they would be continued under the command of Major General Magruder.

Late in January I learned that great discontent prevailed amongst this body of troops and that many of them were leaving their posts and going home—and that a different day had been fixed by the Major General for the reorganization—and I also learned that various orders had been issued from his headquarters effecting the reorganization and certainly calculated, though not designed, to delay and to defeat for a time anything like a complete state organization. Amongst others, General Orders Numbers 7 and 14 were issued on the 12th and 20th of January, respectively, which show that an effort was made to enroll and conscribe those between the ages of eighteen and forty-five years before the term of service of the State Troops of which they were a part had expired and that, too, after an order issued by me prolonging the service of these troops I found when I came into office, that a large number of those embraced by the State Troops were under forty-five years of age. You so left this organization when you adjourned last winter. I had no impression from my correspondence with General Magruder during the session of the Legislature and for some time after its adjournment but that it was his desire and expectation that this element should be continued with the state force; that while fronting the enemy upon the coast it was no time for separating them from those between the ages of forty-five and fifty years, and that you, judging from the law enacted, expected these two classes to remain in conjunction, forming one organization for six months to meet the crisis then threaten-

ing the State from the coast. I acted upon these impressions in arranging the plan for the reorganization of the troops in the field. I was not apprised of any other impression or intention on the part of the major general commanding the district until some time after the issuance of General Orders Number 14, already referred to, and until I heard of the dissatisfaction prevailing amongst the troops.

It is due, however, to General Magruder to state that he claimed to have a different impression as to the organization and disposition of those between the ages of eighteen and forty-five, and that in endeavoring to enroll and place them into regiments separate from the State Troops, he was acting under the orders of General [E. Kirby] Smith. It is also proper here to state that General Smith, in the conference hereafter alluded to, said that it was understood between him and ex-Governor Lubbock when this class of men were organized with the State Troops, that they were at the end of six months to be liable to conscription and be continued in Confederate service. The statement of General Smith was fully corroborated by Governor Lubbock. Still, this understanding was not made known to the men, and they were under the orders referred to, deprived of a privilege granted under the law, conscribing them of selecting their commands and virtually arbitrarily assigned to service.

With as little loss of time as possible after receiving this intelligence, I met Generals Smith and Magruder by invitation in Houston about the 3rd of February in consultation upon this subject, and after a full and free conference, the following order was announced:

Headquarters Texas, New Mexico and Arizona,
Houston February 4th, 1864

Special Orders Number 35

After a conference between His Excellency the Governor of Texas and the Commanding General of the Department and District, the following is announced to the State Troops as a decision ultimately arrived at, and by which all concerned will be governed:

All members of the State Troops under forty-five years of age are permitted at their own option to form new organizations of companies in the Confederate States' service, to serve for the war and to elect their officers, or may join

existing organizations in the Confederate service, and all who do not join either will be reorganized on the 20th instant with the State Troops under the late state law.

On the reorganization of the State Troops, all men now liable to conscription will be enrolled and will be allowed to remain in the State Troops for the period of six months, at the expiration of which time they will be transferred in accordance with the conscript law to the Confederate service.

By command of

Major General J. Bankhead Magruder
W. A. Alston, A. A. General

On the fifth of February after still further considering the condition of the troops—the fact that so many of them had left the field and the smallness of the number left—General Orders Number 13 were issued, with my full consent, as follows:

Headquarters State Troops
District of Texas, New Mexico and Arizona
Houston February 5th, 1864

General Orders Number 13

In order to enable the State Troops now in the field to reorganize within their brigade limits so as to permit those about to enter the service under the recent act of the Legislature to participate in the reorganization, as well as to afford the men entitled to furlough the means of reaching their homes, the Major General commanding directs:

I. That on the 15th day of February, the regiments and battalions of State Troops (excepting those persons who have volunteered under General Orders Number 16) under the command of their officers, shall be marched to their original battalion encampments where they shall be furloughed until the 15th of March next. Commanders of companies of State Troops, on arriving within their brigade districts, will immediately report by letter to the acting brigadier general of the district, with the muster rolls of their companies as they stand, stating the names and residences of their officers and men.

II. Quartermasters of each regiment and battalion of State Troops will furnish such transportation and subsistence as is absolutely necessary (not exceeding one wagon

to every one hundred and fifty men including field, staff and company officers) to enable them to reach their battalion camps. All other public property will be turned over by the Quartermaster for the use of the companies organized under General Orders Number 16.

A commissioned officer will be assigned to act as Quartermaster for detached companies of the State Troops, to procure supplies on the march.

Leaves of absence may be granted to the officers and furloughs to the men from the 15th of February to the 15th of March next, but those receiving furloughs will not be furnished with transportation or subsistence.

III. Upon the 15th day of March next, the companies of State Troops, including those enrolled under the last act of the Legislature, will assemble at the original battalion camps. All those residing in the brigade district as originally formed, rendezvousing at the battalion camp of that district, when they will be within five days thereafter reorganized into companies in conformity with the state law.

The senior commissioned officer now serving with the State Troops and present at the reorganization will act as mustering officer and will make returns of the muster rolls, one copy of which shall be sent to the Adjutant and Inspector General of the State at Austin, to the brigadier general commanding the district, and to these headquarters.

These companies forming the regiments and battalions will be brought together under orders of the state brigadier generals when the regiments and battalions will be reorganized.

IV. Upon the reorganization of the regiments and battalions in conformity with the State law as provided in the preceding paragraph, the non-commissioned officers and privates shall each be divided into three classes to be called the 1st, 2nd, and 3rd class. The third class shall be composed of those not now in the field, those now in the field shall be divided by lot into two classes in accordance with the provisions of the law, and those of the first shall be furloughed for three months.

The classification as above made shall be noted on the muster roll.

V. All commissioned, regimental, and company officers will retain their respective positions until the reorganization is completed, in accordance with these orders. The

AQM's of each regiment and battalion will provide forage and subsistence for the men while on the march and in camps and will remain on duty with the same after the reorganization until further orders. In the meantime they will settle up their outstanding accounts.

VI. The commander of each regiment or battalion will hold himself subject to the orders of the brigadiers of the militia, appointed by the Governor, in order to aid in the execution of the militia law of the State.

He will also take the necessary steps for the arrest of deserters from the present commands.

VII. The major general commanding announces that a paymaster will be sent to each camp to pay the State Troops before they leave their present encampments.

VIII. All persons who have volunteered from the State Troops into new companies or old organizations on or before the 15th instant in compliance with General Orders Number 16, or who shall do so before the 15th instant, shall be immediately granted a furlough by their company commanders for thirty days. Those residing in the northern sub-district shall receive a furlough for forty days.

The troops are reminded that those who present themselves properly armed, mounted, and equipped will be received as cavalry.

By Command of

Major General J. Bankhead Magruder
John Sayles, A. A. General

In conformity with these orders, the companies reported themselves at the time and at the places designated therein and were reorganized, but as to the number who reported, I am not informed. In obedience to orders which I caused to be issued from the office of the Adjutant and Inspector General, four of the brigadier generals who had been appointed by me under the authority of the law passed by the last Legislature, designated places in their respective brigade districts for the assembling of the companies to be organized into battalions and regiments in conformity with Orders Number 13 and the laws of the State, soon after the reorganization of the companies, Brigadier Generals McAdoo, Barnes, Throckmorton, and Griffith acted with great promptness, energy, and zeal in laboring to assemble the companies and organize the battalions and regiments,

and their conduct entitles them to my thanks and commends them to the country. Brigadier General John S. Ford was in active service in the field and was therefore unable to give his personal attention to the orders issued on this subject. The companies, however, in his district were reorganized, and it is but just to say in reference to the people of that brigade district that so many of them were already in service that but comparatively few remained to be organized as contemplated.

In Brigade District Number 4 embracing many of the eastern counties and for duty in which Colonel R. H. Cumby was appointed to brigadier general by me, no place was designated for organizing the battalions and regiments in consequence of his failure to act and obey instructions issued after accepting the appointment tendered him.

From these facts it will be seen that I lost no time and spared no labor to have the troops reorganized in conformity with the law of the State and Order Number 13. I was watching the movements of the enemy and was anxious to have the troops ready to be transferred to the field.

In the mean time another difficulty arose of much greater magnitude and which finally resulted in defeating and destroying the State organization.

Major General Magruder, as soon as the recent act of conscription passed by Congress was published in the Trans-Mississippi Department, declined receiving the State Troops as State Troops in any form of organization, although tendered to him, and expressed his determination to rely alone upon the law of Congress for Troops. This law was published in Houston according to my recollection about the 20th of March, and the Troops in the four districts already named were assembling in their brigade encampments to be organized as the law of the State required and in conformity with General Order Number 13 issued by himself with my consent after they had been continued in service as State Troops, by my orders already referred to. The position assumed by General Magruder virtually involved the assumption that the law of Congress annulled the laws the Legislature enacted, and that the Confederate military officers were thereby authorized to break up a military organization formed under the authority of the State as a reserve auxiliary corps, embracing men never before embraced by any legislation of the Confederate government

and designed to perform merely the same service as to accomplish the same ends as those proposed by the laws of Congress. Of course I need not state that my opinions did not at all accord with his on this subject, and that I so represented to him I preferred the State organization should be completed and that the Troops should go into the field as State Troops, at least until the Legislature should meet and dispose of the embarrassing question by transferring them regularly to the Confederate service in a body, or to be organized in conformity with and for the purposes indicated by the Conscript Act, and by adjusting the Legislation of the State to that of Congress if that body should deem it proper so to do. I insisted upon this as the only proper and legitimate course to be pursued, but General Magruder did not accede to my views. I believed that in this way a larger number of these troops could be more readily thrown into the field than in any other way, to meet the emergency then threatening the State. The position of the Major General necessitated the disbanding or furloughing the State Troops for the State was not prepared to arm, equip and subsist them in the field. The enemy in large numbers were moving up Red River through Louisiana. Steele was moving with a large force from Arkadelphia towards northeastern Texas; the enemy, in force, were threatening northern Texas from the direction of Fort Smith; our forces were called from the coast to meet the foe in Louisiana, and that portion of the State left with few defenders; the enemy were in sufficient force on the Rio Grande to require all our force in the West to hold them in check. The least appearance of differences and conflict between the State and Confederate authorities was to be avoided, and when the enemy were approaching from so many directions and the State and Trans-Mississippi Department thus so seriously threatened, time was important, action necessary, and a mere negative course neither accorded with my duties or met the emergency. I pursued the course which I deemed best under all the circumstances. I called upon the State Troops and to those liable to conscription under the act of Congress by proclamation issued the 12th day of April, to volunteer and organize in conformity with the Confederate law. I could not order them to do so; I had no authority for this.

In view of all the questions and interests involved in

the subject, and affecting personally those who were embraced in the State organization, General Orders Number 1 and General Orders Number 15 issued from Houston and Austin on the 11th day of April were mutually agreed on between General Magruder and myself, and to these orders and the proclamation mentioned above, you are respectfully referred for the details involved in the disposition of this embarrassing question on my part. The importance of this subject causes me to place the facts connected with it so fully before you. The State and Confederate laws both [are] unrepealed. They embrace, in the main, the same class of men and are designed to accomplish nearly the same objectives.

The act of Congress, if executed as it was intended to be by its framers, and the organization embraced under it held as a reserved corps strictly and employed as such and kept in service only when actually needed in the defense of the State, will accomplish nearly the same ends intended by your legislation as an auxiliary force, but in other respects I seriously apprehend it is not so well adapted to the varied wants of the country. Such a corps, thoroughly organized under the authority of the State, would not only have been an auxiliary force to cooperate with the Confederate Army whenever an emergency should have presented itself, but a *reserve* corps of laborers, sowing planting and reaping for the support of those in regular service and interrupted in their domestic vocations as little as the exigencies of the country, would have permitted. I may be mistaken in my calculations, but I am of the opinion that the men between the ages eighteen and forty-five years, if well equipped, sustained and armed, would furnish a sufficient force in the Trans-Mississippi Department, to be continually in the field and would be much more formidable than greater numbers not so well armed and provided for. The whole subject is before you and is worthy of a full consideration in all its bearings.

The State is now without any military force whatsoever. She has not even a sufficient police under her control in any county. My views have not changed since my last message to the Legislature as to the necessity of providing for this want. Those between the ages of fifty and sixty years and those exempt from military service under the laws of Congress should be organized into minute companies

in their respective counties under the authority of the State, and their muster rolls forwarded to the office of the Adjutant and Inspector General. Thus organized, they would aid in the execution of the laws, civil and military; they would form an efficient police force to watch over and control the slave population and prevent them from being tampered with; they would arrest deserters and break up their haunts and root out disaffection, disloyalty and treason to our cause; they would aid in protecting the community from violence and from horrid murders, robberies, and other outrages which are daily being committed in many sections of the State. They would uphold and sustain the laws, assist in their execution, and make the wicked offender everywhere feel that the way of the transgressor is hard, and thus strengthen the local organization for the protection and defense of the State. These duties are all consistent with giving their time and attention mainly to domestic interests.

Frontier Organization

The military organization in the frontier counties, provided for by an act of the 10th Legislature, was completed so soon as practicable after the passage of the law. The Frontier Regiment was transferred to Confederate service on the 1st day of March last. I appointed William Quayle Commanding Officer of the 1st District, George Erath of the 2nd, and James M. Hunter of the 3rd, each with the rank of major of calvary, as provided by law; and it affords me great pleasure to bear evidence to the zeal, energy, and intelligence with which they have thus far discharged the arduous duties imposed upon them. The indications so far are that the organization is based upon proper conception of the wants of that exposed section of the State, and that when thoroughly completed and placed in working condition, it will afford the protection and accomplish the good anticipated from it by the framers of the law. If thoroughly systematized and faithfully executed, it promises better protection against the peculiar warfare waged upon the frontier by the Indians than any plan heretofore adopted. It seems to harmonize well with the habits, the peculiar interests and pursuits of the people of those counties. *Bona fide* residents are employed in this service who have families and property to protect from roving bands of savages,

prowling about to murder and pillage, and thus the protection of home is blended with that of the public.

So far as reports which have reached me, the disposition of the organization to discharge its duties according to the requirements of the law, as a general thing is gratifying, and good service has already been rendered by it to the State and to the Confederacy, which time will fully develop. Deserters from the Army have been promptly arrested and returned to the post of duty, and orders issued from the office of the Adjutant and Inspector General of the State—to sustain, encourage and aid the civil authorities in the discharge of their duties, investigating violations of the law, and in bringing punishment to offenders, to arrest and transfer to Confederate service those who failed to do their duty as soldiers in this service, to inquire into all combinations against the State and the Confederacy, and to arrest for punishment and hold in custody all connected with such combination—have been promptly obeyed by the commanding officers of the districts. The services rendered by Major General Quayle in his district in detecting and arresting and investigating the facts connected with a band of conspirators against the government, are very important. Major Hunter, though laboring the midst of great difficulties, deserves great credit for the energy and address exhibited by him in prosecuting an inquiry into the facts connected with the horrid murders and robberies committed in Gillespie County. I respectfully refer you to the office of the Adjutant and Inspector General for full information upon these subjects.

The number of men embraced in this organization is greater than was anticipated by you when in session last winter; the appropriation made for its pay and support is far short of what will be required. With the number of men now reported on the muster rolls, if one-fourth only is kept in service at a time, the expenses will amount to about eight hundred thousand (800,000) dollars, from the best estimates I can make.

If the Frontier Regiment is to be permanently withdrawn from service on that border, and its defense left to this organization alone, there may be a necessity for putting a larger proportion of the force in active service, and then the expense will be increased in proportion to the additional numbers employed. This Regiment was about

the 9th of April ordered from the frontier, and the condition of affairs in the district commanded by Major Quayle caused him to call to his assistance a large proportion of the force at his disposal.

How it is that the numbers in this organization have swelled up so much beyond the calculations made by the 10th Legislature is a matter for your inquiry. I am not informed of the rule adopted to determine the "*Bona fide* citizen under the law." Instructions have been issued from the office of the Adjutant and Inspector General that the term excluded deserters, and those who had left other sections to avoid military service, and that it only embraced those who were there, in good faith, before the passage of the law, with their families and property and who did not come there to shirk duty elsewhere. No man should be permitted to remain in that service who does not fully discharge his duties as a soldier and a citizen. Every man who is not true to the country should be expelled from the organization and placed in service under Confederate authority, and when found guilty of conspiracy and treason, punished as the law demands. The citizens of the border counties were placed in that service to protect their homes, to protect the frontier, to uphold the laws, and to do their duty to the State and the Confederacy. The organization, thus purged, and composed only of *Bona fide* citizens and good and true men—as already stated—will do much good. Such an organization, freed from demoralizing elements, in conjunction with a reliable battalion or regiment to cooperate on the outside of the border counties will, it is conceived, give better protection to that exposed portion of the State than has been afforded for years and seems really necessary to break up and guard against the dangerous combinations and elements collecting far beyond and threatening it seriously.

If the same views are entertained by the Confederate authorities as to this mode of its defense to the frontier, why may not arrangements be made by which the means of sustaining this organization may be furnished to the State from the Confederate Treasury?

The Penitentiary

You adjourned your regular session last winter without providing, by law, for the distribution of the products of

the penitentiary You left this important matter to the discretion of the financial agent and the directors of that institution, and imposed the responsibilities upon them. I respectfully submit that the disposition of these products, their price, and to whom they should go, are peculiarly in your province and should be fixed by law. The people expect this of their Senators and Representatives, and coming as they do from all portions of the State they are best calculated to judge of and regulate this matter, and the interest of the State requires it. Whether the price should be fixed at the market value or some other, it is for you to determine, and also in what proportion they are to be distributed to the Army, the families of soldiers, and the community. The subject—left without regulation by law—it becomes a question whether in a legal point of view the financial agent is not bound to sell these products at their market value. He is but an agent entrusted with the sale of the property of his principal, and the principal has failed to fix the price or regulate the disposition of the property, and left the agent under heavy bonds to hunt out his legal obligations through precedent and authority. In ordinary times, the position would not be so embarrassing, for the products would not be in such demand and sales at the market value would dispose of the difficulty. But now, when the families of soldiers require the fabrics, the army needs them, and the community clamor for them, your legislation should fix the rules for the guidance of the agent. His difficulties are increased by the constant and rapid depreciation of the Confederate currency which he is bound to receive in payment for the products. This depreciation devolves upon the financial agent, and upon the directory the necessity of increasing the price of the goods from time to time—otherwise the institution would either stop or become an expense to the State—and yet the increased prices intended to meet and that only to a very limited extent—the depreciation of the currency causes dissatisfaction and complaint in the community which would not be the case if the whole matter were regulated by law.

The Institutions for the Blind, the Deaf and Dumb, and the Lunatic Asylum should be furnished with such products as they may need from the penitentiary, at the prices that may be fixed. It is certainly very poor economy and very

lame financing for the State to appropriate money from her treasury to support these charitable institutions and have a large portion of it expended in the purchase of fabrics at fifteen and twenty dollars per year, not worth intrinsically so much as the products of the penitentiary, sold from three to five dollars per year in the same currency.

The financial agent and director represent the necessity of purchasing many articles in Mexico which cannot be procured in the country and yet are absolutely necessary to the machinery and to the institution. These articles can of course be purchased only with cotton or specie and they should be authorized to purchase and export under such regulations as you may deem proper such amounts of cotton as will be necessary for these purposes. I have to some extent responded to the necessity as represented to me by authorizing the purchase and export of some cotton, but authority for this should be directly given by law.

Cotton for Soldiers' Families, Medicines

I am advised through frequent communications addressed to me that many of the families of soldiers in some portions of the State cannot procure cotton to make clothing when they have the spinning wheels and looms and are willing to perform the labor. The attention of the county courts should be called to this, and this want in some way supplied.

I am also informed that there is a great scarcity of medicines throughout the State, and great suffering prevailing in consequence of this. Applications are numerous from physicians, sustained by the people, for the privilege of exporting small amounts of cotton to supply this want. I call the facts to your attention that you may provide a remedy for this evil, if practicable.

Demoralization

Imperative duty requires of me to call your attention to the fearful demoralization and crimes prevailing throughout the State. In some sections society is almost disorganized—the voice of the law is hushed and its authority seldom asserted. It is a dead letter—an unhonored thing upon the unread pages of the statutes. Murder, robbery, theft, outrages of every kind against property, against human life—against every thing sacred to a civilized people—are frequent and general. While communities are under

a reign of terror they utter their dreadful apprehensions and their agonizing cries of distress are in vain. The rule of the mob—the bandit—of unbridled passions—rides over the solemn ordinances of the government. Foul crime is committed, and the criminal, steeped in guilt and branded by his own dark deeds with eternal infamy, goes unwhipped of justice. Not even a warrant is issued for him, no effort is made by the sworn officers of the law or by the community to bring him to punishment. Too often the deed is excused—the community is divided in opinion as to the guilt, and the criminal is screened from justice, unless his offending chances to touch some peculiar influence or prevailing notions and then without trial and without the forms of law, he is hung by a mob. The law is not at fault. It has denounced its fearful penalties against transgressors of all kinds. It has provided all the necessary officers to expound and enforce its provisions. They are solemnly sworn to faithfully discharge their duties. They are armed with the authority to employ the power of the country, when necessary, to execute the law. They are paid from the treasury of the State, and from the taxes of the people. They are set apart for the time being through the organism of government to this solemn work. Every county and every judicial district has the legal and moral power—where the officers and the people earnestly and cordially cooperate to root out these evils, arrest these crimes, punish the offenders, and to restore the law to vigor and to regular operation. Thus the law would again become the harmony of society and secure it against this fearful confusion and these fearful dangers.

In view of these facts, the judiciary and all other officers should be at their posts and fearlessly and faithfully discharging their duties. The people should encourage and sustain them, and hold them to a strict accountability for their short comings in office. Sacrifices must be made and moral courage displayed by the civil as well as the military officers. These qualities are as essential in the one as in the other, and as important to society. The severest penalties should be provided for civil officers who fail to discharge the obligations pertaining to their position. They should not be permitted to eat bread in idleness, and in neglect of their sworn duties. The law must triumph or tyranny and unbridled passions will reign. Order must

prevail or anarchy and the reign of terror ensue. Let the solemn warning from the pages of history instruct us, and let us be wise in time.

Purchase of Cotton with State Bonds

Diligent and as full inquiry as I was able to make, satisfied me that the bonds of the State, pledging payment in cotton, could not be sold except at most ruinous rates. I fully believe that to have pursued literally the act of the Legislature on the subject of the disposition of these bonds would have cost the State perhaps from three to five millions of dollars to have realized one million. This could only have sunk the credit of the State still lower and was therefore, if possible, to be avoided. And besides it was very necessary to adopt some plan upon which the State could speedily realize upon the pledges her credit, and as a matter of course it was necessary to conform the plan to some extent to the most singular condition of affairs existing in the State in order to make it effective.

I found the condition of things, with reference to cotton, about this: Congress had then laid on restriction whatever upon its free exportation, and the only restrictions imposed upon it were by military authority, claimed to be exercised under the impressment law. The manner in which this authority had been exercised—the confusion and the dissatisfaction that reigned upon the subject—the poor returns to the public benefit from thousands of bales that had been exported—are well known to you and to the country. Contracts of the most extravagant character were in existence, for the introduction of goods and Army supplies—absorbing vast amounts of cotton of the best grades—some of which, it is gratifying to learn, have been since annulled.

A cotton bureau was about being organized at Houston by the authority and under the direction of General Smith, intended to control cotton for purchase of supplies for the Army. This bureau was organized and commenced its operations and gave something like system to the military control over cotton. The plan of the bureau was about this: They gave to the vendor what are properly called *Specie Certificates* for one half of his cotton, at prices varying, as I am informed, according to the quality, from ten to fifteen cents per pound, and exempted from impressment the other

half, or furnished him a permit to export the same amount. This system proceeded upon the calculation that the vendor could not afford to spare to the government more than half of his cotton, and that his own necessities required him to retain the other half.

Transportation was scarce, and difficult to procure. The men, generally of the State, up to fifty years of age, were in the Army and the transportation controlled by the military authorities. It was generally conceded that the cost of transportation of cotton from any distance in the interior to the Rio Grande was equal to one-half of its value—risks, losses, and wastage considered.

The producer could not afford to sell all his cotton for State Bonds, however willing he might be to divide with the State for the public necessities. If he took the Bonds of the State for one half, he must retain the other for his own use and be protected in its control so that he could realize from it—the protection thus extended being the main inducement to sell. A system of permits authorizing the vendor to export the same amount of cotton for himself which he had sold to the State was susceptible of great abuses, and besides did not secure other objects necessary and constantly kept in view. It was necessary that the cotton should be taken care of—that some one would be responsible for it, from the purchase to the sale, and that expedition and energy should hasten it to market. The teams and slaves of the planter necessary for the interests of the military service would only admit of details, and I believed as the military authorities stated to a limited extent, that planter and vendor must therefore be interested. Had it been practicable without extending any privileges to the producer to purchase cotton for State Bonds, as it was not, for the reasons already given, save at enormous and ruinous prices—it could not have been transported to the Rio Grande by persons and agents hired for that purpose, having no interest in its for less than half of its value, when the wastage, carelessness, charges and losses in various ways, usually attending public property were considered. It would then have required as much cotton to have realized to the State a given sum of money by buying the cotton entire—even if it could have been purchased at the same price—as it will to realize to her treasury the same amount upon the plan adopted. And besides, the

Confederate currency had sunk so low in value that had the State undertaken, through agents and employees to export cotton entirely upon her own account, it would have been necessary to provide, in advance, specie for paying freights and charges, or to have interested parties able to control the necessary transportation in cotton itself. And again, permits, as they are termed, claimed to have been extended by Confederate authority to export cotton, were, as I am informed, afloat, and are still in numbers, and could be bought from four to six cents per pound of the cotton authorized to be exported by virtue of them, and besides, specie to some extent had to be competed with in purchasing.

Again, the two acts passed by the Legislature—the one contemplating the sale of the six per cent bonds for specie or arms or munitions of war and machinery, cotton being pledged on their face for their redemption, the other contemplating the issuance of seven per cent bonds redeemable two years after the war should end and to be used in the purchase of cotton—were passed at the same session, embraced the same subject matter, and were designed to accomplish one result and might therefore justly and legitimately be construed together as one act of legislation. Such a construction would not only be sustained by legal rules of interpretation but would secure practical and beneficial results to the State and prevent the sacrifice of thousands of dollars, perhaps millions, to mere technicalities. Why should both classes of bonds be used when only one answered a better purpose?

In view of these facts and considerations, I adopted a plan for the purchase of cotton with the seven per cent bonds which I believe just to the planter and to the vendor, true to the public interests, to the State and to the Confederacy, and which, I believe, will realize to the State her bonds at par, so far as they may be sold, as I anticipated when it was adopted.

The main features of the plan are these: the vendor transfers his cotton to the State, and under the authority of the State, transports it to the Rio Grande at his own expense and risk. He retains one half of the cotton for his own use—he receives State Bonds for the other half at its specie value at that point, less the actual cost of transportation—the transportation west of the Trinity not to cost

over one-fourth of the value of the cotton in that market. Where the vendor cannot export the cotton, the State pays him for it in State Bond at its value where purchased—generally from nine to eleven cents per pound according to quality—he exporting a like amount, under the protection of the State for himself. One contract, according to its terms, pays the State fifty dollars in specie for each bale exported. The departures from this plan, so far as my information goes, are to a limited extent and admitted only for the purpose of securing necessary transportation and proper compensation who were laboring and expending their money in the purchase and exportation of cotton the purchase of rope and bagging, etc., for the benefit of the state. The departures have been indulged only for these reasons, and then limited in extent, so as not to defeat the realization to the State of her bonds at par in specie or its equivalent, and all that was promised for the cotton when purchased.

There is no illegal force, no illegal and oppressive exactions made of the producer; there is but little risk incurred by the State, no chance for fraud, as the State only pays for what she actually receives. It is a direct appeal to his patriotism, his liberality, and to his interest, private and public, and his energies and capital—united in the promotion of the two interests. The tithe—the only tax imposed upon cotton by Congress except the export duty—is paid, and if the owner and producer realizes something out of the remainder, it is but due him for the property is his own hard earnings.

The producer of all classes of men should be encouraged, and one design of this system was to give him encouragement to arouse his energies and cause him to feel that he had some interest in his own productions.

To prevent cotton from being exported in the name of the State not embraced under the plan proposed, and to secure to her treasury all that is promised from it, this plan was thus systematized. The cotton is reported at and recorded in the offices at Houston, San Antonio, and Eagle Pass, and from those offices to me, at this place, and by me the reports are referred to the Military Board to be preserved and recorded, and on the arrival of the cotton on the Rio Grande, it is to be disposed of in accordance with the agreements under the plan.

Colonel E. B. Nichols of Galveston, a merchant of long standing and well known for his success and ability as a business man, was selected as the agent or commissioner of the State to dispose of the Bonds and purchase and dispose of cotton. The appeal was made to the citizens and they cheerfully responded to the call, and in a few weeks a large amount of cotton was conveyed to the State under this plan, and much of it is now being transported to the Rio Grande and a part has been sold; and more is directed to be forwarded to Houston to pay for arms already imported from abroad and to be purchased at that point, as much of the cotton as can be used to advantage in the purchase of arms and munitions of war. If the State is freed from embarrassment in the execution of this plan, she will, in a short time, be enabled to pay for several thousand stand of arms, all the munitions of war necessary to frontier protection, and perhaps much more, and have quite a surplus left to sustain her or to be expended in the purchase and in the introduction of machinery, and she can procure these supplies no other way. All the arms of the State, including the eight hundred and sixty Enfield Rifles recently purchased, have been placed at the disposal of the Confederate authorities and are in their possession.

The State, in the execution of this policy, is exerting the means and the energy not yet placed under the absolute control of the Confederacy, together with her credit to strengthen herself, to strengthen the Confederacy, and to give additional aid to the cause in which we are engaged. Notwithstanding all this, it is my duty to inform the Senators and Representatives of the people that the most serious obstacles and embarrassments have been thrown in the way of the State, and that she is not yet freed from them.

Subordinate officers on the Rio Grande, claiming to act under instructions from officers higher in rank in the Confederate States' service, have interfered with cotton transported under the authority of the State and have delayed and prevented its exportation. I am informed by Colonel E. B. Nichols, agent of the State, that they have prevented cotton belonging to the Military Board from being exported and have claimed half of it for the Confederacy. I am as yet not informed what particular cotton this is, but it is either cotton or cotton exported under contract for the purchase and introduction of machinery. They have thus

interposed themselves between the State and the execution of her laws, the providing of means for her defense, and to clothe her people.

I have borne these embarrassments with patience, and have faithfully—and am still laboring—to secure an understanding—to have harmony and concert of action between the State and Confederate authorities. I am now in correspondence with General Smith on this subject, and I do not despair of a complete success. The liberal views manifested by him in reference to the civil authorities of the State and her rights, the disposition, and even deep interest manifested by him in reference to the introduction of machinery afford me strong assurance that, when this subject is fully understood, all embarrassments will be removed, and complete harmony and concert of action secured. The same liberal sentiments have been expressed by Major General Magruder and by Lieutenant Colonel W. J. Hutchins, Chief of the Cotton Bureau at Houston, in their correspondence with me, and I am therefore led to the belief that the difficulties referred to have grown out of a want of mutual understanding.

This whole cotton business, once systematized and controlled in a manner consistent with the rights of the citizen and what is due to the public necessities, the State and Confederate authorities exerting themselves in concerted effort, the most gratifying results may be anticipated.

Much of the cotton of the State is in the seed, wasting in pens and houses, bagging and rope must be introduced from abroad, and it requires a system combining energy and liberality to place the cotton in a condition for market. About the day of April I directed the agent of the State to arrest the purchase of cotton for the reason that the procurement of cotton by the Confederate authorities to be used in the purchase of supplies for the Army.

The correspondence with the military authorities on the subject of cotton so far as it has progressed, you will find in the office of the Military Board, together with the reports of the amounts purchased under the plan alluded to. I hope to be enabled in a few days to place before you the final conclusion of the military authorities as to the purchase and exportation of cotton by the State, under the system proposed. It is, in my opinion, absolutely essential to the public interest of the State that she should

be fully sustained in her policy propounded for the purchase and transportation of cotton, for the accomplishment of the ends proposed by your legislation.

From the facts and considerations already stated, it is believed that this is the only plan that will speedily and at a reasonable cost to the State secure to the State the result desired, and so essential to the public welfare.

Necessity of Correspondence With the Headquarters of the Trans-Mississippi Department

As we are almost cut off from the government at Richmond, and as General E. Kirby Smith is vested with so much power, it is very necessary that a correspondence should be constantly up with his headquarters, and that the executive should have a more reliable means of correspondence than the slow and uncertain correspondence by letter through the mail. The necessities for this have been several times felt by me since my induction into office, and are likely to continue so long as the enemy controls the Mississippi River and its valley to the extent he now does, and a full and complete understanding as to matters affecting the interest of the State, her condition and wants should at all times be had between the executive and the general commanding the department. His mind should not be left to impressions obtained through any indirect ways as to the interest, the policy, and the condition of the State. I record with pleasure my confidence in the integrity and uprightness of General Smith, and his disposition to accord to the State what is due when he has full information.

My experience in office and the condition of affairs in the Trans-Mississippi Department only add strength to my convictions that the State government should be preserved intact, and in as full vigor as compatible with our surroundings. Texas is the only civil power left intact west of the Mississippi River, and she should profit by her good fortune and give the benefit of it, by her vigor, her energy, and her achievements to her less fortunate sister states. Missouri is overrun by the enemy; Arkansas and Louisiana have, for a time, lost the possession of a large portion of their territory, and they are therefore shorn of their completeness as a sovereign state and deprived of the ability to have any thing like a regular and systematic civil policy. She should, as she has heretofore done, yield cheerfully

and readily whatever may be legitimately required for the common cause and common defense, and her remaining energies and powers would be wisely and systematically employed in preparing for a still more evil day, and in gathering still greater strength for a still more desperate struggle in the contest for justice and independence. If it should become necessary in the progress of this fearful struggle for her even to sacrifice principle, which in times less pregnant with danger she would not sacrifice, let her make the sacrifice in that noble spirit of patriotism so characteristic of her people; but let her at the same time mark well the latitudes and longitudes of the departures, and return to them with a firm determination when the storm and hour of gloom have passed with the conflict of arms. May she be the last state to give up the cause of her bleeding and suffering sisters, and may she be the last to bow her discrowned head, and own that she is no longer a sovereign power, erect and free.

Spirit of Public Enterprise

The spirit of public enterprise now manifested by individuals, associations of men, and by chartered companies in employing capital and labor for the manufacture of iron and various other articles necessary to the people and the army, the purchase and introduction of machinery for the manufacture of cotton and woollen goods—is not only gratifying but a source of hope and congratulation to the whole State. With proper protection and encouragement extended to those who are engaged in the prosecution of these enterprises, in a few months large amounts of iron and other necessary articles will be daily manufactured and very considerable amounts of machinery of a varied character introduced and put into operation, notwithstanding the great risks and expenditures incurred in prosecuting such undertakings in these times of peril and confusion. The capital of every kind—the laborers, the agents, mechanics, superintendents, directors, etc., employed, should be protected by law against interference or interruption from any and every source. You will be enabled to see something of the amount of capital already devoted to these objects—the spirit and energy exhibited by those engaged in their prosecution—by the report of the Military Board, and from the papers in that office. I have missed no opportunity of

encouraging, sustaining, and protecting in every way within by power and within the sphere of my influence those devoting their capital, labor and time to the prosecution of these and all other enterprises calculated to benefit the people and the Army, and as I think, essential to our success in a long-continued struggle.

I have considered it the best policy as well as the only one calculated to ensure speedy and certain success, to encourage individual enterprise rather than attempt the accomplishment of these varied, necessary and numerous objects alone through the Capital, agents, employees and management of the State. This policy not only ensures better success but it more readily adapts itself to the wants of the country and diffuses its beneficial results more generally.

In my efforts to execute and make this policy efficient, I have endeavored to place under the protection of the State and the Military Board those engaged in it, and proposing to engage in such enterprises, together with the Capital and laborers thus employed, making such regulations as I thought best calculated to ensure good faith and success. While the State Troops were under my command, I made such details as I thought reasonable and necessary for the accomplishment of these ends. In order to insure the introduction of machinery from abroad and the appliances essential to its operation when so introduced, the exportation of cotton is necessary, and for these purposes the exportation of it in such quantities as were deemed proper has been authorized under the authority of the State, and under such regulations as were considered sufficient to secure good faith in the parties exporting said cotton without crippling their energies or embarrassing them in the accomplishment of the objects proposed. You are respectfully referred to the office of the Military Board—the agreements there on file, and to their report for full information on this subject.

In view of the great interests involved in this whole subject, I earnestly recommend that you authorize the Military Board and the executive to make such arrangements and contracts with individuals, associations and chartered companies who are possessed of the capital and powers necessary to introduce and operate machinery or to manufacture any necessary articles for the people and the Army as will ensure them the protection of the laws of the

State in the devotion of their capital, labor, and energies to the accomplishment of their objects. This done by you and one other and secured—the cordial cooperation of the Confederate authorities with those of the State is systematically sustaining and encouraging this policy protecting those engaged in such enterprises, granting the necessary details, mechanics, laborers, agents, etc.—the most gratifying results may be anticipated by the public in a few months. So many of our people are now drawn into Confederate service and are under the military authority that the cooperation mentioned is essential to relieve those thus employing their capital and their time, and incurring the incidental risks from apprehensions of being interrupted in the midst of their labors and plans to enable them to make reliable calculations and to ensure them the necessary laborers and mechanics. Such a cooperation as this will result equally to the benefit of the State and the Confederacy—to the people and the Army, and to the families of soldiers—and would seem natural and easily obtained and I most sincerely hope as I invite your attention to its importance, you will lay the foundation for insuring it.

The State is also under her own authority and by means of her own capital prosecuting public works, in some of which she has large amounts of capital involved, and they result equally to the benefit of the Confederacy and to the State. She is through contracts manufacturing on a small scale small arms, powder, and laying the foundation for an increased manufacture of powder necessary to the frontier and to the various counties. She is also manufacturing ordnance and beginning the manufacture of spinning jennies to facilitate the manufacture of cotton cloth—and the same remarks as to enterprises prosecuted under her authority as to the cooperation of Confederate authorities—the detail of the necessary mechanics and laborers—apply with equal force to the works directly prosecuted by the State. I take pleasure in stating to you that in my conversation and correspondence with Generals Smith and Magruder on these subjects, they have manifested a full appreciation of their importance and a most liberal disposition to foster and protect such enterprises and give all the facilities consistent with the military service. I am encouraged by the belief that a systematic and thorough cooperation between the State and Confederate authorities

can be secured in the prosecution of these enterprises when the objects had in view by all are fully understood.

Certificates as to Officers

The recent act of conscription passed by Congress exempts from military duty "the Vice President of the Confederate States, the members and officers of Congress, of the several Legislatures, and such other Confederate and State officers as the President or executives of the respective states may certify to be necessary for the proper administration of the Confederate and state governments as the case may be. Has Congress the power to invest by law the President of the Confederate States with authority to strip the general government of these States of the officers provided for its administration by the Constitution and laws? Has the Confederate government power to vest the executive of a sovereign state or any other officer with authority to displace the officers, provided for its administration by the Constitution and laws of that State?

I will not argue these questions and thereby leave the implication of doubt on my mind as to them. There can be but one answer given to them—that answer must be in the negative.

The Constitution and laws of Texas have not only provided but have determined the officers necessary to the administration of the government, and they are in their respective offices discharging the duties imposed upon them by the authority referred to.

It is the duty of the executive of the State to respect and execute its laws, and to see that its Constitution is not violated. These obligations are imposed on him by a solemn oath. He is nowhere empowered to veto or nullify laws already in force, nor to set aside provisions of the Constitution.

The Confederate government did not create the state government, nor did it establish its various officers and provide for officials to fill them. It certainly, then, cannot judge of the officers necessary to its proper administration or take them from their places of trust. If that government cannot do so directly, it certainly cannot do so indirectly by vesting the power in any other officer or person. So far as placing officers of the government into military service is concerned, it is a matter addressed to the legis-

lative and not to the executive discretion, and that discretion is then restrained and restricted by the Constitution. The Legislature, so far as it is not controlled by the Constitution, may dispense with such offices and officers as, in their wisdom, may be deemed proper in view of the difficulties and dangers threatening the country. The executive can dispense with none, civil or military. Were I, as executive of the State, to certify that any or all of the State officers were not necessary for its proper administration, the certificate would be that of an unauthorized license given to the military authorities to deprive the State of the officers, provided for its administration, thereby utterly to prostrate and bring into contempt the State government.

Where should I begin with the exercise of the power? Where should I end with it? How am I to determine the officers necessary—they all have their duties assigned to them by law. Shall I commence with the judiciary? Shall I deprive the courts of their magistrates, judges, clerks, sheriffs, and other officers? Shall I deprive the State of a comptroller and treasurer, of an adjutant general, of a secretary of state? Shall I break up the county courts? The attempt, therefore, to exercise such a power would not only be dangerous but utterly unauthorized—and my respect for the whole framework of our government and for my oath of office as executive forbids me to attempt the exercise. The exercise can do no good. It can give no appreciable strength to the Army or our cause, and no such excuse in my opinion can be offered for it. It may be that the law of Congress was not intended to apply to the officers already provided for in the Constitution and laws, and who are actually employed in the administration of the government, but to such only as might be hereafter found from time to time to be necessary to assist in the administration of, and in conducting the business of, the state government. But it is not so construed by the Conscript Bureau in the Trans-Mississippi Department.

It is for you to determine whether the exigencies of the country require the abolishment of any of the offices established by the laws of the State and of the function of their officers, and if so to make such regulations as you may deem proper and necessary. I cannot, however, be true to my convictions and forbear the expression of the opinion that the officers of the State in view of the existing laws—

the duties imposed by them—and the general condition of the community—should be kept in their position and held to a rigid and strict discharge of their duties. Those, however, who fail to discharge their duties faithfully should be placed in military service. No office, civil or military, should be placed in military service. No office, civil or military, should be a meer sinecure in this hour of trial and peril to the country.

Writ of Habeas Corpus

There can be no doubt that Congress is vested with power under the Confederate Constitution to suspend “the privilege of the writ of habeas corpus when, in cases of invasion or rebellion, the public safety may require it.” Congress must of course judge at their peril of the existing necessity and define the class of offenders from whom the privilege shall, from the time specified, be withheld. They were in a position to know the condition of many portions of the Confederacy about which we know but little as to current events; and they perhaps judged wisely as to the necessity. The objects, however, to be attained by the suspension of the privilege of this writ must be clear to every thinking and well informed man who has given close attention to the subject, is well illustrated from the legislation and jurisprudence of England. It is to deprive of a speedy, public trial, to prevent the release from legal custody of those who may be found plotting treason and conspiring against the government and the life of the community, until such time as they may be released or tried consistently with the public safety. This object should be the guide to all the regulations attending the suspension of the privilege of the writ and no departure from principle, or the safeguards thrown around the liberty of the citizen in the Constitution of the State or Confederacy, is necessary to the accomplishment of this end. The departure from principle, the danger, does not lie in the mere suspension of the writ, for this is provided for where the public safety requires it, but in the manner in which the suspension may be regulated and carried out. It seems consistent with the objects to be attained by the suspension of this writ that an information or affidavit of the facts against the accused should be fixed, and that the warrant of arrest should be issued by some officer legally authorized

to issue such warrants. If a party is guilty of any of the offenses named in the act of Congress, some person or persons must know the facts, and the information can be given and the affidavit filed. It is not deemed necessary to discuss the question whether Congress possessed the power under the Constitution to authorize the president, the secretary of war, and the general officer commanding the Trans-Mississippi Departments under his authority and control to order the arrest and to hold in custody citizens not in the military service charged with any of the offenses specified. It would be difficult to demonstrate the existence of such power, and the exercise of such power is not essential to the accomplishment of the end proposed by the law. Unless this power is construed into an unlimited license, given to the president to employ the military through the officers named under his orders as commander in chief of the Army, and to judge of the offenses and to make arrests, it can have but a very limited operation if this be the construction and operation of the law. The military authorities are made judges of offenses and crimes properly cognizable by the judicial tribunals, and the liberty of the citizens is in their hands at least so far as arrest and detention, for a time is concerned. Why the courts of the country, which have been so ready to sustain the legislation of Congress in this struggle should be ignored and officers appointed by the president to investigate the cases of those arrested by military authorities, I am unable to perceive. There are courts in almost every county and district in every state of the Confederacy and they could not only issue warrants and cause arrests to be made in the instances defined by the act of Congress, but they could investigate all the facts and report them to the president under proper regulations. Such a course as this, it is believed, is much more consistent with the whole framework of our government than the one adopted by Congress. If the law was intended to prevent any citizen from an appeal to the established judicial tribunals to determine whether or not it was in accordance with the Constitution of the Confederate States, it is a precedent most dangerous, in practice most alarming, and utterly without Constitutional warrant.

Practically, I fear that this act of Congress adds no strength to our cause. It divided public opinion as to its

propriety. It produces alarm and dissatisfaction. Every offense defined in the law is provided for in the laws of Texas, and, I believe, in the laws of the Confederate States, and are properly cognizable by the judicial tribunals; and were these judicial tribunals faithfully to discharge their duties, they would much more effectually punish the offenders classified under this law than can be done under the regulations made by it.

I do not believe that the president will abuse the powers conferred upon him. I have too much confidence in his patriotism—but whether he can prevent abuses or not is more than doubtful. It is a question, however, above the mere disposition and character of the president and the patriotic intentions of Congress. It is a question of safe precedent in law and wise and judicious legislation. It is the precedent of the Confederate Congress in the suspension of the writ of habeas corpus and in all of its bearings, merits full considerations and an unequivocal expression of your views in regard to it. My convictions are that the law should be repealed or entirely changed in its regulations.

The laws of Congress in relation to currency, the writ of habeas corpus, conscription, the attempt to vest the president of the Confederacy and the executives of the States with the authority to deprive the governments over which they respectively preside, of the officers constituted by the Constitution and the laws, are certainly extraordinary and unprecedented acts of legislation, and when taken together, most significant. It required unusual nerve to adopt them, and if they are justified at all, they must be justified by the unusual crisis and as a means to save the life of the nation.

Let us all stand firm in our allotted places and discharge fearlessly and faithfully the duties devolved upon us, and the God of Hosts who has crowned with success our armies, elate with victory over so many fields of blood will vouch safe to our country independence and a proud place in the family of nations.

P. Murrah

The Senate on motion retired to their chamber when an adjournment was moved until 9 o'clock A.M. tomorrow and carried.